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Marine Fisheries Advisory

**NEW REGULATIONS ON ISSUANCE OF
OFFSHORE AND COASTAL LOBSTER PERMITS AND
FINAL DETAILS ON THE
OUTER CAPE COD LOBSTER TRAP EFFORT CONTROL PLAN**

Synopsis of Changes: New rules concerning commercial lobster permits were approved by the Marine Fisheries Advisory Commission on November 20, 2003 that will be enacted for the upcoming fishing year (2004).

For Offshore Permit Holders: (1) a new endorsement has been created that designates the use of non-trap gears (e.g. trawls or gill nets); (2) the moratorium on the issuance of any new Offshore Lobster Permit for landing lobsters caught with traps will continue. *Note: Offshore Lobster permits are required of any commercial fisherman landing lobsters in Massachusetts that were taken in federal waters.*

For Coastal Permit Holders: (1) Lobster permit transfers, prohibited since last February, will be allowed again beginning December 1, 2003 under the current transfer criteria; (2) in 2004, lobster fishermen will be limited to fishing in only a single Lobster Management Area within the state's waters and transfer of permits from one area to another is prohibited; (3) fishing in the Outer Cape Cod Lobster Management Area will be allowed only for those fishermen who have documented fishing history in the area during at least one year from 1999 to 2001 as part of an effort control plan mandated by the interstate plan. *Note: All non-qualifying fishermen will be prohibited from fishing in the OCC area.*

Details on specific actions:

Offshore Lobster Permit Changes

- (1) **Non-trap endorsement for all Offshore Lobster permits.** *Marine Fisheries* licensing staff will use 2002 catch report data to assign this endorsement to those permits that do not use traps.
- (2) **Extended moratorium on issuance of any new Offshore Lobster Permits for landing lobsters caught with traps.** The moratorium on issuance of new Offshore Lobster Permits enacted last February will be maintained. Only fishermen who have a federal permit endorsed for "non-trap" will be eligible to obtain a new Offshore Lobster Permit. Those vessels seeking a new permit for use with non-trap gear would be eligible to obtain it; those vessel owners seeking a new permit for landing lobsters taken by traps would not be able to obtain it. This action will discourage further

expansion of trap fishing in federal waters adjacent to Massachusetts to complement effort control management efforts in inshore waters of the Commonwealth.

Coastal Lobster Permit Changes

- (1) Lobster permit transfers, prohibited since last February, will be allowed again beginning December 1, 2003.** The resumption of transfers beginning December 1, 2003 will be subject to existing transfer criteria. However, *Marine Fisheries* will propose new criteria for determining if a lobster permit was “actively fished” and thus eligible for transfer. These new criteria will undergo a formal rule-making process over the winter. Until new criteria are finalized, the former transfer rules remain in effect (322 CMR 7.03). These can be viewed at http://www.state.ma.us/dfwele/dmf/CommercialFishing/cmr_index.htm#frame

- (2) Limiting of Coastal Lobster Permits to a single LMA in coastal waters.**

This rule will help managers control fishing mortality within LMA's and to reinforce the American Lobster Management Plan foundation of “Area Management”. This action is more restrictive than what's required by of the interstate plan but is necessitated by the area-specific mortality reductions inherent in the plan and the multiple management areas existing in Massachusetts waters. This rule will also enhance enforcement and compliance with area-specific conservation measures. For each permit holder renewing their permit for 2004, *Marine Fisheries* will assign the LMA based on information from their 2003 Coastal Lobster Permit and recent catch reports. Permit holders will be eligible to appeal the designation. If the permit holder has a valid 2004 federal permit with an Area 3 trap allocation, the holder would be allowed two LMA's - Area 3 and one of the nearshore areas (1, 2, or OCC) as eligible. The transfer of permits will not be allowed between LMAs.

- (3) Outer Cape Cod Effort Control Plan - Permit specific trap limits for fishermen eligible to remain in the Outer Cape Cod Lobster Management Area (OCC).**

This action is required by the Interstate Lobster Management Plan and designed to accomplish an eventual 20% reduction in traps in the OCC by 2008. The basis of the plan was crafted by the Outer Cape Cod Lobster Conservation Management Team back in 2001 as a means to meet OCC conservation goals. The original effort control plan's basic principles were to identify the fisherman who fished in the area (in 1999 or 2000), preclude new effort from entering the area, and grant each eligible permit holder a specific trap allocation. The original plan used the number of traps reported fished on catch reports in the year 2000 as the trap allocation and transfers among fishermen was to be allowed.

Marine Fisheries proposed - and the Commission approved - a plan similar in design and function except the amended plan adds an extra year (2001) to the eligibility period, and the trap allocation is based on each permit holder's unique fishing history using pounds landed and traps reported fished during the years 2000 – 2002. Despite increased complexity this basis for trap allocations reflected a more accurate value of traps actually fished by individual permit holders based upon auditable catch reports. For more details see the complete proposal at www.mass.gov/marinefisheries. Each eligible fisherman will be mailed a notice that includes their permit-specific trap allocation by mid-December.

Fishermen with Outer Cape Cod trap allocations will be able to transfer some or all of their allocation to other lobstermen in 50 trap increments through a process managed by *Marine Fisheries* over the upcoming winter. If needed, a transfer “tax”

(a percentage of the traps transferred) will be levied when traps are transferred between fishermen. Tax traps will be removed from the fishery to help achieve the eventual goal of 20% trap reduction. Further reductions in traps may be required to meet the trap reduction goals.

Marine Fisheries will rely on a previously published relationship between traps reported fished and pounds reported landed over the period 1997-2001 aggregated for all permit holders to determine the “typical” number of traps fished for each amount of landings. For each of three years (2000-2002) the eligible permit holder’s maximum traps fished and landings (in lbs.) will be used to calculate the “initial trap allocation” – either the “predicted” number of traps for that level of poundage or the number of traps reported fished – whichever was lower. Among the three years, each permit holder was given the highest value as an initial trap allocation. However, these allocations are subject to audit to determine validity of reported landings and number of traps fished.

It is important to note that in no case will the number of traps allocated be allowed to exceed the number of traps reported fished by the permit holder in 2000, 2001, or 2002. Additionally, for purposes of calculating a trap allocation, any year where the permit holder reported fishing more traps than the number of tags purchased (or issued by *Marine Fisheries*), the number of trap tags purchased will be used in lieu of their reported traps.

An appeals process will be available for those individuals wishing to appeal their trap allocations based on clerical and technical errors with their catch reports and trap/landings statistics.

- (4) Other actions pertinent to Outer Cape Cod Lobster Management.** No new endorsements for the harvest of lobsters with SCUBA will be permitted in the OCC. No action was taken on the adoption of a three-month closed season, although *Marine Fisheries* and the Commission will continue discussions on this issue and the issue of trap allocation rules for SCUBA divers.

For more information please contact *Marine Fisheries* at 617.626.1520
or visit our website at www.mass.gov/marinefisheries.